



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X  
IN RE SEPTEMBER 11 LITIGATION : 21 MC 101 (AKH)

----- X  
WORLD TRADE CENTER PROPERTIES LLC, :  
et al., :

Plaintiffs, :

08 CIV 3719 (AKH)

v. :

UNITED AIRLINES, INC., et al., :

Defendants. :

----- X  
WORLD TRADE CENTER PROPERTIES LLC, :  
et al., :

Plaintiffs, :

08 CIV 3722 (AKH)

v. :

AMERICAN AIRLINES, INC., et al., :

Defendants. :  
----- X

**JOINT CASE MANAGEMENT PLAN AND ORDER**

It is hereby ORDERED that the following Joint Case Management Plan regarding remaining discovery, motion practice, and pretrial preparations relating to the July 15, 2013 trial of CPLR 4545 correspondence is established for the World Trade Center Plaintiffs<sup>1</sup> and Aviation Defendants<sup>2</sup> in In re September 11 Litigation.<sup>3</sup>

<sup>1</sup> The World Trade Center Plaintiffs are World Trade Center Properties LLC, 1 World Trade Center LLC, 2 World Trade Center LLC, 4 World Trade Center LLC, 5 World Trade Center LLC (now known as 3 World Trade Center LLC), and 7 World Trade Company, L.P.

<sup>2</sup> The Aviation Defendants are: American Airlines, Inc.; AMR Corporation; United Air Lines, Inc.; United Continental Holdings (f/k/a UAL Corporation); US Airways, Inc.; US Airways Group, Inc.; Colgan Air, Inc.; Delta Air Lines, Inc.; Globe Aviation Services Corporation; Huntleigh USA Corporation; The Boeing Company; and Massachusetts Port Authority.

A. Remaining Discovery for July 15, 2013 Trial

1. March 1, 2013:

~~Provision proposed by the WTCP Plaintiffs [see 2E letter for explanation]:~~

~~Deadline for the Aviation Defendants to serve supplemental expert reports of Daniel Fischel and Michael Beach concerning 7WTCO. and reports of any new experts related to the July 15, 2013 trial. These reports also may address issues that apply to the World Trade Center Complex.~~

Provision proposed by the Aviation Defendants [see 2E letter for explanation]:

Deadline for the Aviation Defendants to serve supplemental expert reports of Daniel Fischel and Michael Beach concerning 7WTCO. These reports also may address issues that previously were raised in depositions relating to correspondence with respect to the World Trade Center Complex. The parties may not designate any new experts regarding the WTCP Complex.<sup>4</sup>

2. March 15, 2013: The World Trade Center Plaintiffs shall take the deposition of the Aviation Defendants' expert Michael Beach.

3. April 8, 2013:

~~Provision proposed by the WTCP Plaintiffs [see 2E letter for explanation]:~~

~~Deadline for World Trade Center Plaintiffs to serve any additional expert reports relating to the July 15, 2013 trial.~~

Provision proposed by the Aviation Defendants [see 2E letter for explanation]:

Deadline for the World Trade Center Plaintiffs to serve their expert reports concerning 7WTCO. These reports also may address issues that apply to the World Trade Center Complex; however, the parties may not designate any new experts regarding the WTC Complex.

4. May 10, 2013: Deadline for the Aviation Defendants to complete the depositions of all of the World Trade Center Plaintiffs' experts relating to the July 15, 2013 trial.

<sup>3</sup> By complying with the Court's order to present a Joint Case Management Plan, the World Trade Center Plaintiffs do not waive and specifically reserve all objections based on (1) the Court's decision to try and determine correspondence issues before there has been an award of damages by a jury, and (2) the holding of a bench trial on correspondence issues to the extent it will be used by the Court to determine questions of fact that should be determined by a jury in arriving at a damages award.

<sup>4</sup> The World Trade Center Complex shall refer to 1 World Trade Center, 2 World Trade Center, 4 World Trade Center and 5 World Trade Center.

5. **May 24, 2013**: Deadline for the World Trade Center Plaintiffs to complete the depositions of all of the Aviation Defendants' experts (including Daniel Fischel as to 7WTC Co., and any issues relating to the Complex that are addressed in his supplemental report) relating to the July 15, 2013 trial.

**B. Motions in Limine and Other Pre-trial Motions**

1. **July 1, 2013**: Any motions in limine, other motions concerning any expert witness or other pre-trial motions that any party desires to make in writing before trial shall be filed by this date. The failure to make a written motion by this date shall not preclude or prevent any party from objecting at trial to any testimony or other evidence offered by any opposing party, or from making any motion at trial.

**C. Preparations and Trial Date**

**1. Pretrial Preparations**

- (a) **July 9, 2013**: The final pretrial conference shall be scheduled for this date. The following specific pretrial preparations shall be completed by the indicated dates:
  - (i) **April 1, 2013**: The Aviation Defendants shall designate any fact witnesses that they intend to call at trial by this date.
  - (ii) **April 15, 2013**: The World Trade Center Plaintiffs shall designate any fact witnesses that they intend to call at trial by this date.
  - (iii) **May 31, 2013**: All fact witnesses designated by parties as trial witnesses shall be deposed by this date unless already deposed.
  - (iv) **June 3, 2013**: The Aviation Defendants shall submit to the World Trade Center Plaintiffs any proposed stipulations of fact by this date.
  - (v) **June 10, 2013**: The World Trade Center Plaintiffs shall respond to any proposed stipulations of fact submitted by the Aviation Defendants by this date and shall submit any additional proposed stipulations of fact by this date.
  - (vi) **June 12, 2013**: Unless otherwise ordered by the Court, pursuant to the Court's Individual Rule 3.A.iv, the Aviation Defendants shall submit to the World Trade Center Plaintiffs a brief summary of the claims and defenses to be tried at the correspondence trial.
  - (vii) **June 14, 2013**: The parties shall reach agreement on any stipulations of fact to be presented at trial.

- (viii) **June 14, 2013**: The Aviation Defendants shall provide proposed trial exhibit lists, including designated testimony from depositions, other litigation and other extra-judicial statements that any Defendant intends to offer as evidence at trial (other than for cross-examination) to the World Trade Center Plaintiffs.<sup>5</sup>
- (ix) **June 21, 2013**: The World Trade Center Plaintiffs shall provide proposed trial exhibit lists, including designated testimony from depositions, other litigation and other extra-judicial statements that any Plaintiff intends to offer as evidence at trial (other than for cross-examination) to Aviation Defendants.
- (x) **June 26, 2013**: All parties to exchange objections to proposed trial exhibit lists and to designated testimony from depositions, other litigation and other extra-judicial statements that a party intends to offer as evidence at trial (other than for cross-examination), and to exchange proposed counter-designations.
- (xi) **June 28, 2013**: The parties shall meet and confer regarding their respective objections to proposed exhibit lists and designated testimony from depositions, other litigation and other extra-judicial statements that a party intends to offer as evidence at trial (other than for cross-examination), including counter-designations and regarding the brief summary of claims and defenses to be tried at the correspondence trial.
- (xii) **July 8, 2013**: Unless otherwise ordered by the Court, pursuant to the Court's Individual Rule 3A, the parties shall submit a joint pretrial order on this date.
- (xiii) **July 8, 2013**: Unless otherwise ordered by the Court, pursuant to the Court's Individual Rule 3B, each party shall submit, in duplicate, a pretrial memorandum describing their position on the factual and legal issues to be tried and proposed findings of fact and conclusions of law for each claim and defense.

---

<sup>5</sup> By agreeing to exchange designated testimony and extra-judicial statements, the parties do not concede the admissibility of same and reserve the right to object to the use of such testimony and statements at trial.

**2. Trial**

- (a) July 15, 2013: A two-week non-jury correspondence trial will commence.
- (b) Each side will have equal total time to present witnesses, cross-examine, and make argument, except as the Court may otherwise allow for good cause shown.

**SO ORDERED:**



Judge Alvin K. Hellerstein  
United States District Judge

Dated: 3/20/13